

U.S. Serial No. 09/540,319
Docket No. LFS-093

REMARKS UNDER 37 CFR § 1.111

Claims 1-13 are pending after entry of the amendment set forth herein.

Claims 1-13 were examined and rejected. No claims were allowed.

Claim 1 has been amended to clarify that a first one of the conductive surfaces having a first insulating pattern scored into it to divide the first conductive surface into two regions. Support for this amendment is found throughout the specification, particularly at: page 5, line 16-23 and page 8, line 24-28. The Applicant submit that the claim changes were made for clarification and in no way should limit the scope of the claims.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks herein.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 1-13 have been rejected under 35 U.S.C. § 112, second paragraph, as assertedly indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as their invention. Each of the specific rejections is addressed individually below:

(a) Claim 1 is rejected in that the last paragraph recites a scored portion in one of the layers that divides the second layer It is unclear how a score in the first layer could divide the second layer. The Applicants have addressed this rejection by clarifying that a first one of the conductive surfaces having a first insulating pattern scored into it to divide the first conductive surface into two regions. Thus, Claim 1 is not indefinite.

(b) Claims 2-13 are rejected as being dependent on a rejected claim. The Applicants have addressed this rejection by amending claim 1. Thus, Claim 2-13 are not indefinite.

A

U.S. Serial No. 09/540,319
Docket No. LFS-093

The Applicants have addressed each of the specific rejections above. Accordingly, this rejection of Claims 1-13 under 35 U.S.C. § 112, second paragraph, should be withdrawn.

Rejection under 35 U.S.C. § 103

Claims 1-13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hodges et al. (WO 97/18464) in view of Charlton et al. (US 5,798,031). The Office asserts that it would have been obvious to one skilled in the art to apply all of the claimed features of Hodges et al. to the scored groove in the outer layer recited in Charlton et al.

Charlton et al. describes the preparation of a sensor by screen-printing 2 separate electrodes onto an insulating base. The physical separation of the 2 printed electrodes on the insulating base prevents each electrode from being in electrical contact with each other. Applicant could not determine where Charlton recites the implementation of a groove or score for dividing one of the conductive surfaces into two regions such that they are insulated from each other. Applicants respectfully request further clarification as appropriate. Applicants submit that Claims 1-13 are patentable over Hodges et al. in view of Charlton et al because all claim limitations are neither taught nor claimed within these references.

CONCLUSION

Applicants respectfully request that, in light of the amendments and explanations above, the Examiner reconsiders and withdraws his rejections. In view of the foregoing amendments and remarks, it is respectfully submitted that the application is now in condition for allowance and Applicants earnestly solicit early issuance of a Notice of Allowance. Should the Examiner believe that any additional information or amendment is necessary to place the application in condition for allowance, he is urged to contact the undersigned Attorney via telephone at 408-956-4066.

A

U.S. Serial No. 09/540,319
Docket No. LFS-093

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

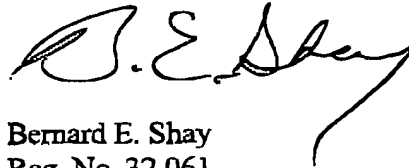
1. A medical diagnostic device for measuring an analyte concentration of an electrically conductive biological fluid, comprising a multilayer structure having a first layer and a second layer sandwiching an intermediate layer,
 - a) the first and second layers each comprising an insulating sheet, having a conductive surface adjoining the intermediate layer,
 - b) the intermediate layer being an insulating layer with a cutout, having a first end and a second end, which, together with the first and second layers, defines a flow channel to permit the sample to flow from the first end to the second end,
 - d) the flow channel comprising
 - (i) a dry reagent on the conductive surface of one of the layers for reacting with the sample to yield a change in an electrical parameter that can be related to the analyte concentration of the fluid and
 - (ii) an electrochemical cell, within which the electrical parameter is measured,
 - d) a first one of the conductive surfaces [of one of the layers] having a first insulating pattern scored into it[s conductive surface] to divide the first conductive surface [second layer] into two regions, insulated from each other, whereby sample that flows across the pattern provides a conductive path from the first end to the second end.

U.S. Serial No. 09/540,319
Docket No. LFS-093

The Assistant Commissioner is hereby authorized to charge any required fees due in connection with this submission, including petition and extension of time fees, and to credit any overpayment, to Deposit Account No. 10-0750 (Docket No. LFS-093/BES) (Johnson & Johnson).

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached is captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE."

Respectfully submitted,



Bernard E. Shay
Reg. No. 32,061
Attorney for Applicant

Johnson & Johnson
International Patent Law Division
Attention: Philip Johnson
P.O. Box 1222
New Brunswick, New Jersey 08903
Date: 10-23-2002

LIFESCAN

a Johnson & Johnson company

1000 GIBALTAR DRIVE
MILPITAS, CALIFORNIA 95035-6312

FACSIMILE TRANSMISSION

COMPANY CONFIDENTIAL

This message is intended only for the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of the message is not the intended recipient, or the employee or agent responsible for delivering the message solely to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return this original message to us at the above address via the U.S. Postal Service. Thank you.

DATE: October 23, 2002
TO: Robert L. Nasser, Examiner, Art Unit 3736
COMPANY: United States Patent and Trademark Office
FAX NUMBER: 703 308-0758
TOTAL NO. PAGES: 11
SENDER: Bernard E. Shay
FAX NUMBER: 408 956 4404
DIRECT DIAL NUMBER: 408 956 4066
EMAIL ADDRESS: bshay1@lfsus.jnj.com

IF YOU DO NOT RECEIVE ALL OF THE PAGES LISTED ABOVE, PLEASE NOTIFY SENDER.

FAX RECEIVED

OCT 23 2002

GROUP 3700

COMMENTS/MESSAGE: Please see the attached, re USSN 09/540,319 filed 3/31/00. Atty Docket LFS093

A

PTO/SB/97 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Certificate of Transmission under 37 CFR 1.8

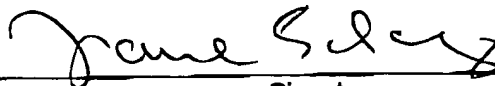
I hereby certify that this correspondence is being facsimile transmitted to the
United States Patent and Trademark Office

on October 23, 2002
Date

FAX RECEIVED

OCT 23 2002

GROUP 3700



Signature

Jane Silarajs

Typed or printed name of person signing certificate

Paper(s) submitted:

Amendment and Response
Request for Extension of Time
Form PTO/SB/17 Fee Transmittal
Form PTO/SB/21 Transmittal Form

Re: 09/540,319 Filed 3/31/00 entitled Electrically-Conductive Patterns for Monitoring the
Filling of Medical Devices (Atty Docket LFS-0093)

Burden Hour Statement: This form is estimated to take 0.03 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

A